



1 5228

NRUC CORPORATION RECORDATION NO. Filed & Recorded

100 NORTH TWENTIETH STREET  
SECOND FLOOR  
PHILADELPHIA, PA 19103  
215 • 569 • 2220

MAY 14 1987 11:45 AM

INTERSTATE COMMERCE COMMISSION

5/14/87  
Date 5/14/87  
Fee \$10.00  
CC Washington, D.C.

May 11, 1987

Ms. Noreta McGee  
Secretary  
Interstate Commerce Commission  
Washington, DC 20423

Dear Ms. McGee:

Enclosed for recordation is one copy and one original of a Management Agreement between:

Lease Financing Corporation - Owner  
Three Radnor Corporate Center  
Suite 400  
Radnor, Pa. 19087

NRUC Corporation - Transportation Division-Manager  
100 North 20th Street  
Phila., Pa. 19103

This agreement permits NRUC to act on behalf of the Owner in matters relating to the Owner's equipment. Thank you.

Sincerely,

*Charles C. Craft*  
Charles C. Craft  
Vice President - Marketing

CCC/pm  
Enclosure

*Charles C. Craft*

1 5228

MANAGEMENT AGREEMENT RECORDATION NO. \_\_\_\_\_ Filed & Recorded NRUC CONTRACT # 986

MAY 14 1987 11:45 AM

INTERSTATE COMMERCE COMMISSION

THIS AGREEMENT dated as of JAN 1, 1987, between NRUC CORPORATION,  
(NRUC) and LEASE FINANCING CORPORATION, (OWNER).

W I T N E S S E T H

WHEREAS, the Owner owns THIRTY-SIX (36) 70' LPI, 50' BOXCARS, which /

are all located in WILMINGTON, NC. (See ATTACHMENT "A" to this  
Equipment and 3600 cubic boxcar being herein referred to as a Unit); and

WHEREAS, the equipment was managed previously by NRUC  
pursuant to Management Contract No. 1479 between NRUC and the  
Owner and the terms of NRUC's Plan of Reorganization which was  
confirmed at December 17, 1985, and consummated on December 31,  
1985, in the United States Bankruptcy Court for the District of  
South Carolina at Bankruptcy No. 85-0245G; and

WHEREAS, the Owner desires to retain the services of NRUC, as  
manager for the Owner, for the purpose of managing the Equipment; and

WHEREAS, NRUC is willing to accept such appointment as manager, to  
manage the Equipment for the account of the Owner during the term of this  
Agreement; and

NOW, THEREFORE, in consideration of the premises and the mutual  
covenants herein contained, the parties hereto agree as follows:

1. Appointment of Manager; Acceptance. Subject to the terms and  
conditions of this Agreement, the Owner hereby appoints NRUC as manager of

the Equipment for the purposes herein stated and shall hereby accept such appointment. NRUC hereby agrees that in the performance of its duties as agent hereunder it shall be bound by the terms and provisions of any applicable financing document, and that its rights hereunder and the rights of any railroad with which NRUC, on behalf of the owner, shall arrange for use of the Equipment in accordance herewith, shall be subject and subordinate to the right of any Lender under such financing document.

2. Term. This Agreement shall remain in force until it shall have been terminated as to all of the Units of Equipment. The term of this Agreement with respect to each Unit shall commence on January 1987 and shall continue until December 31, 1993 unless earlier terminated as provided provided.

3. Ownership. The parties agree that the Owner shall at all times be and remain the owner of the Equipment, and that nothing in this Agreement is in any way intended to grant any ownership interest or property in the Equipment to NRUC or to any railroad whose markings appear on the Equipment. Further, NRUC will not directly or indirectly create or suffer to exist, any mortgage, pledge, lien, charge, encumbrance, or other security interest in, or claim on or with respect to the Equipment in favor of persons claiming through or under NRUC, or arising out of a breach of NRUC of its obligations hereunder. NRUC will promptly, at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, security interest or claim and shall indemnify Owner and hold the Owner harmless from and against all claims, damages and expenses arising out of any such third party claim.

4. Management Duties. The management functions to be performed

by NRUC hereunder shall include those specifically set forth in this Agreement and such other duties and responsibilities as shall be agreed upon from time to time by the parties hereto:

A. NRUC shall manage and supervise for the utilization of the Units at NRUC's complete discretion and shall perform all necessary administrative acts to ensure the proper utilization of said Units and the protection of Owner's interest therein.

B. NRUC shall paint available for the Units the markings of a railroad controlled by NRUC or with which NRUC has entered an agreement for the use of the equipment. Owner agrees that the Units shall at all times have affixed thereto the markings required by the any applicable financial institution holding to the Units and shall be lettered with such railroad markings and the name and/or other insignia used by such railroad. Such name or insignia shall comply with all applicable regulations. The NRUC logo/type insignia may be affixed to each side of the units in standard size.

C. NRUC shall prepare all documents for filing relating to the registration, maintenance and record keeping functions for the Units in accordance with Association of American Railroad (AAR) interchange agreement. Such matters shall include, but shall not be limited to, the preparation of the following documents: (i) appropriate AAR interchange agreement with respect to the Units; (ii) registration when required for each Unit in the Official Railway Equipment Register and the Universal Machine Language Equipment Register; and (iii) such reports as may be required from time to time by the Interstate Commerce Commission (ICC) and other regulatory agencies with respect to the Units. Any record keeping performed by NRUC and all records of payment and charges and all correspondence relating to the Units shall be separately recorded and maintained by NRUC in a form

available for reasonable inspections by the Owner or Owner's agents from time to time during regular business hours of NRUC. NRUC shall supply the Owner and any Lender with such reports regarding the use of the Units as the Owner and/or Lender may reasonably request.

D. NRUC shall perform all car accounting services for the Units and send reports to the Owner on a quarterly basis itemizing all revenues by Unit Numbers.

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E. NRUC shall monitor, make, or cause to be made, such inspections of and maintenance and repairs to the Equipment, including replacement of parts, as may be required to maintain the Equipment in good operating condition (ordinary wear and tear excepted) and in compliance with all applicable rules and regulations of government and industry authorities relating to the qualification of the Equipment for the use in the Railroad Interchange System throughout the term of this Agreement. All expenses of maintenance and repairs shall be paid directly by the Owner (but NRUC shall have the right to pay such expenses on behalf of the Owner and to deduct such amounts from the Owner's Gross Revenues). NRUC agrees that it shall reasonably pursue all claims against third parties for damage to the Equipment at Plaintiff's suit and at the expense of the Owner. The Owner agrees that, with respect to any claim or right against any third party relative to the physical condition of any unit, the Owner shall, to the extent reasonably required to permit NRUC to seek recovery from such third party, assign such claim or right to NRUC, unless NRUC is obligated to bear the cost or expense for which recovery is sought, such recovery shall be for the benefit of the Owner. NRUC may elect to require the Owner to advance reasonable costs to be incurred by NRUC on the Owner's behalf in any particular case. NRUC agrees that prior written approval by the OWNER is required for a railcar repair, whenever the estimated cost of repair will exceed \$1,000.00. Such approval applies to any railcar placed into a repair shop operated by NRUC, or any repair shop designated by NRUC, acting as manager for OWNER. OWNER understands, and agrees, that safety repairs performed by other railroads in accordance with AAR rules and regulations are exempt from this provision. In the event that owner does not approve such repairs with respect to a unit,

THE TERM OF THE AGREEMENT TERMINATED AND AGREED WITH SUBJECT TO  
SUCH DATE.

E. NRUC shall make, or cause to be made, in either case at the expense of the Owner, all alterations or modifications to the Equipment required by government or industry regulations; provided, however, if the direct costs of such alterations or modifications shall exceed \$500 per Unit (computed cumulatively from the date of this Agreement), then NRUC shall first give the Owner prior written notice of the proposed alterations and modifications and at a time of the last thereof, and NRUC shall not thereafter make or cause any modifications to or have if the Owner advises that it is unusual . . . to do so, shall give the Owner notice that Owner does not desire to have such alterations or modifications made. In the event Owner elects not to proceed with such required alterations or modifications, NRUC may elect to terminate this Agreement as to the Equipment requiring such alterations or modifications upon five days prior written notice to Owner.

F. NRUC shall use its best efforts to the end that no Units will be used predominantly outside the United States within the meaning of Section 48(e) et seq. of the Internal Revenue Code of 1954 (as amended, or any successor provisions thereof, and applicable regulations thereunder).

#### 5. Receipt and Disbursement of Revenue.

A. NRUC shall collect, on behalf of the Owner, all mileage charges and car hire revenues paid by railroads with respect to the use of the Equipment. Such collected mileage charges and car hire revenues are referred to herein as the "Gross Revenues." From the Gross Revenues, NRUC shall pay all expenses which shall be required to be paid with respect to the operation of the Owner's Equipment, including, but not limited to movement or [redacted] charges, maintenance, depreciation charges, insurance, [redacted]

4. PRECISE and/or sales taxes when applicable, electric charges, heating fees,  
loadout fees together with management fees provided in Section 7 of this  
Agreement. The balance of the Owner's Gross Revenue for each calendar  
quarter after payment of such expenses and management fees relating to such  
calendar quarter is referred to herein as "Owner's Quarterly Net Revenues".

5. NRUC shall distribute Owner's Quarterly Net Revenues on a quarterly basis.  
Such disbursement shall be to an account of the Owner and shall be accompanied  
by a document to Owner in sufficient detail to permit calculation of the  
management fee and any other sum deducted by NRUC at that time. Owner's Quarterly  
Net Revenues collected during a calendar quarter shall be distributed  
no later than the 15th day of the month which includes the quarter.  
Said.

Adjustments will be made on a quarterly basis. Such adjustments  
will include, but not be limited to Owner's revenue, NRUC's management fee  
and operating cost associated with Owner's Equipment.

6. Conflicts of Interest. Owner understands that NRUC is engaged  
in other boxcars for its own account and for the account of persons associated  
with NRUC and that NRUC may have conflicts of interest between the management  
of Owner's Equipment and other boxcars owned, controlled or managed by NRUC.  
Although there can be no assurance that the Owner's Equipment will earn  
revenues equal to those of other railroad equipment owned, controlled or  
managed by NRUC, NRUC agrees to use reasonable efforts to integrate the  
Owner's Equipment into the fleet of railroad equipment managed by NRUC and to  
manage the Owner's Equipment in a manner consistent with the management by  
NRUC of railroad equipment for all other persons in an effort to provide the  
same rate of utilization for the Owner's Equipment that it achieves for all  
other boxcars which it manages and agrees not to discriminate against Owner.

7. **Agent and placement of the Units.** NRUC shall have no liability under this Section 6 except for fraud, bad faith or gross mismanagement.

7. Management Fees. In consideration of the management services performed by NRUC, the Owner agrees to pay NRUC a management fee per the following schedule:

YEAR	NRUC MANAGEMENT FEE
1986	8% OF NET OPERATING REVENUES
1987	8% OF NET OPERATING REVENUES
1988	17.5% OF NET OPERATING REVENUES UP TO A LIMIT OF \$71,500, PLUS 20% OF NET OPERATING REVENUES COLLECTED IN EXCESS OF \$71,500.
1989	17.5% OF NET OPERATING REVENUES UP TO A LIMIT OF \$70,000, PLUS 20% OF NET OPERATING REVENUES COLLECTED IN EXCESS OF \$70,000.
1990	17.5% OF NET OPERATING REVENUES UP TO A LIMIT OF \$67,500, PLUS 20% OF NET OPERATING REVENUES COLLECTED IN EXCESS OF \$67,500.
1991	17.5% OF NET OPERATING REVENUES UP TO A LIMIT OF \$64,700, PLUS 20% OF NET OPERATING REVENUES COLLECTED IN EXCESS OF \$64,700.
1992	17.5% OF NET OPERATING REVENUES UP TO A LIMIT OF \$61,600, PLUS 20% OF NET OPERATING REVENUES COLLECTED IN EXCESS OF \$61,600.

See Insert on page 10 hereof.

8. **INSURANCE.** NRUC will cause to be carried and maintained public liability insurance in an amount not less than \$3,000,000.

9. **Compliance with Applicable Laws, Rules and Regulations.** NRUC agrees that to the extent it has physical possession and can control use of the Units, the Units will at all times be used and operated under and in compliance with the laws of the jurisdictions in which the same may be located and in compliance with all lawful acts, rules and regulations and orders of every government, agency or office having power to regulate

Supervise the use of the United except that either the Owner or NRUC may in good faith and by appropriate proceedings contest the application of any such rules, regulations or order in any reasonable manner at the expense of the contesting party.

10. Indemnification. Owner and NRUC jointly and severally acknowledge, agree and covenant that NRUC is entering into this Agreement solely as the manager of the equipment.

A. The Owner agrees that he shall not attempt to enter into contracts or commitments in his name, or on behalf of, NRUC or to bind NRUC in any manner or respect whatsoever except insofar as may be consistent with NRUC's status as manager under this Agreement. The Parties agree to indemnify and hold NRUC harmless from any and all claims, demands, causes of action (at law or equity), costs, damages, reasonable attorneys' fees, expenses and judgments which may hereafter be asserted against or sustained by NRUC by reason of a claim of a third party against NRUC based on or relating to the Equipment or arising out of operation or use thereof or the Owner's title thereto, except a claim which gives rise to NRUC's obligation to indemnify the Owner hereunder.

B. NRUC agrees that it shall not attempt to enter into contracts or commitments in the name, or on behalf of, the Owner, or to bind the Owner in any manner or respect whatsoever except insofar as may be consistent with NRUC's status as manager under this Agreement. NRUC agrees to indemnify and hold harmless the Owner from and against any and all claims, demands, causes of action (at law or equity), costs, demands, reasonable attorneys' fees, expenses and judgements which may hereafter be asserted against or sustained by the Owner by reason of any act or omission by NRUC (i) if a result of negligence, fraud or bad faith of NRUC; (ii) if a result of any

misrepresentation or breach of any covenant or warranty made by NRUC  
hereunder, or (iii) if a result of any act of NRUC outside the scope of NRUC's  
authority granted under this Agreement.

AC RJA  
[REDACTED]

#### Section 7. Management Fees (continued)

"Net Operating Revenues" for each year shall mean the total Owner's Quarterly Net Revenues for such year. Management Fees shall be deducted from Gross Revenues and shall be payable to NRUC prior to distribution of Owner's Quarterly Net Revenues pursuant to Section 5.B. above. If, in any given calendar quarter, Gross Revenues are insufficient to pay in full all of the expenses payable pursuant to Section 5.A. hereof, the amount owing NRUC under this Section 7 shall be accrued and shall be payable from Gross Revenues for future calendar quarters after payment of expenses payable pursuant to Section 5.A. with respect to such calendar quarter.

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The occurrence of any of the following events shall be Events of Default hereunder:

(i) The nonpayment by either party of any sum required hereunder to be paid by the other party within 10 days after notice thereof;

(ii) The default by either party under any other material term, covenant or condition of this Agreement which is not cured within 10 days after notice thereof from such party.

12. Remedies Upon Default.

A. Upon the occurrence of any Event of Default by one party to this Agreement, the other party may terminate this Agreement and proceed by acceleration of all amounts due and owing under this Agreement and sue thereon and recover direct financial damages which result from a breach thereof and such defaulting party shall bear the other party's costs and expenses, including reasonable attorney's fees, in securing such enforcement.

B. In the event of default by NRUC, the Owner may by notice in writing to NRUC, terminate the right of possession of NRUC of the Units, and thereupon the Owner may by its agents enter upon any premises where the Units may be located and take possession of them and henceforth hold, possess and enjoy the same free from any rights of NRUC.

C. In the event of default by the Owner, NRUC, by notice in writing to the Owner, may terminate its obligations hereunder.

13. Termination: At the expiration or termination of this Agreement as to any Units, NRUC will surrender possession of such Units to the Owner by delivering the same to such location as the Owner shall reasonably designate. The assembling, delivery, storage and transporting of the Units shall be at the expense of the Owner unless such termination results from a default by NRUC.

After January 1, 1990, Owner May terminate this Agreement upon notice to NRUC in the event that Gross Revenues during six (6) calendar quarters are insufficient to satisfy the expenses due under Section 5.A. hereof relating to such quarter. *M.R.H.*

NRUC, at the expense of the Owner shall arrange for storage of the Units for such period of time as shall be required by the Owner or the Lender.

14. Warranties and Covenants. NRUC represents, warrants and covenants that:

- A. NRUC is a corporation duly organized, validly existing and in good standing under the laws of the State of South Carolina and has the corporate power and authority, and is duly qualified and authorized to do business wherever necessary to carry out its present business and operations and to own or hold its properties and to perform its obligations under this Agreement.

- B. The entering into and performance of this Agreement will not violate any judgment, order, law or regulation applicable to NRUC, or result in any arrest of or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of NRUC or on the Units pursuant to any instrument to which NRUC is a party or by which it or its assets may be bound.

- C. NRUC is not a party to any agreement or instrument or subject to any charter or other corporate restriction which, so far as NRUC can now reasonably foresee, will adversely affect the ability of NRUC to perform its obligations under this Agreement.

15. Miscellaneous. - 1. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns. This agreement may not be assigned by NRUC except with the prior written consent by Owner and may not be assigned by Owner to any person other than a Lender, except with the prior written consent of NRUC.

B. Prior notice required or permitted to be given by one party to  
the other hereunder shall be properly given when made in writing, deposited in  
the United States mail registered or certified, postage prepaid, addressed to:

NRUC at:

WEBB KIMENTING CORPORATION  
THREE RONOR CORPORATE CENTER  
SUITE 400  
RONOR, PA. 19087

NRUC at:

100 North Twentieth Street  
Suite 200  
Philadelphia, Pennsylvania 19103

or mail to the following address may either party from time to time designate by such  
notice in writing to the other.

C. NRUC shall take all action requested by the Owner  
to confirm the interest of the Owner in the Units and that  
NRUC has no interest in the Units other than as provided hereunder.

D. During the continuance of this Agreement, the Owner  
shall have the right at their own cost and expense, to inspect the  
Units at any reasonable time or times wherever the Units may be. Subject to  
the Owner or NRUC obtaining prior approval from any railroad, repair shop, or  
storage location not owned or controlled by NRUC.

E. No failure or delay by either party shall constitute a  
waiver or otherwise affect or impair any right, power or remedy available  
to such party nor shall any waiver or indulgence by either party or any  
partial or single exercise of any right, power or remedy preclude any  
other or further exercise thereof or the exercise of any other right, power  
or remedy.

E. This Agreement shall be governed by and construed according  
to the laws of the State of South Carolina.

IN WITNESS THEREOF, the parties hereto have executed this Agreement as  
of the date above written.

FOR: NRUC CORPORATION

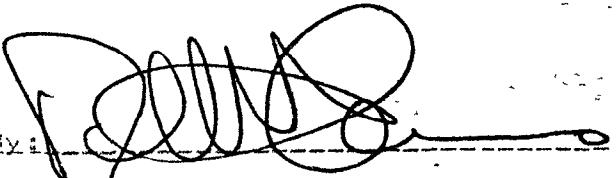
By: Robert L Shiner Jr  
ROBERT L SHINER, JR.

Title: VICE PRESIDENT

Signed: Barbara Basettier  
BARBARA BASSETTIER

Title: ASSISTANT SECRETARY

FOR: LEASE FINANCING CORPORATION

By: 

Name: RICHARD E. CARUSO

Title: Senior Vice President

Signed: Nancy L Jillson

Name: Nancy L. Jillson  
Title: Assistant Secretary

NOTARIES

STATE OF PENNSYLVANIA

1

COUNTY OF PHILADELPHIA

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On this 31<sup>st</sup> day of December, 1986, before me personally appeared ROBERT L. SHINER, JR., to me personally known, who, being by me duly sworn, says that he is a Vice President of NRUC CORPORATION - TRANSPORTATION DIVISION; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and such officers acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Barbara Ann Rastetter  
Notary Public

My Commission Expires:

BARBARA ANN RASTETTER  
Notary Public, Phila., Phila. Co.  
My Commission Expires April 14, 1990

STATE OF PENNSYLVANIA

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COUNTY OF DELAWARE

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On this 1<sup>st</sup> day of January, 1987, before me personally appeared Richard E. Caruso, to me personally known, who, being by me duly sworn, says that said instrument was signed by him and he acknowledged that the execution of the foregoing instrument was his free act and deed.

Nancy L. Speaker  
Notary Public

My Commission Expires:

NANCY L. SPEAKER, Notary Public  
Radnor Twp., Delaware Co.  
My Commission Expires June 4, 1987

## EXHIBIT "A"

LEASE FINANCING CORPORATION

NRUC CONTRACT NUMBER 986

NUMBER OF CARS 36

CURRENT RAILROAD MARKINGS	CURRENT CAR NUMBER	ORIGINAL RAILROAD MARKING AND SERIAL NUMBER
ICG	502113	PT 205133
ICG	502114	PT 205135
ICG	501610	PT 205138
ICG	502119	PT 205145
ICG	502121	PT 205147
ICG	502173	PT 205148
ICG	502174	PT 205149
ICG	502175	PT 205150
ICG	502176	PT 205151
ICG	501604	PT 205152
ICG	501619	PT 205154
ICG	501618	PT 205155
ICG	501621	PT 205156
ICG	501620	PT 205157
ICG	501624	PT 205158
ICG	501603	PT 205159
ICG	502115	PT 205160
ICG	502116	PT 205161
ICG	501617	PT 205162
ICG	501618	PT 205163
ICG	501616	PT 205164
ICG	501608	PT 205165
ICG	501602	PT 205166
ICG	501625	PT 205167
ICG	501626	PT 205168
ICG	501614	PT 205169
ICG	501607	PT 205170
ICG	501615	PT 205171
ICG	501609	PT 205173
ICG	501606	PT 205174
ICG	502117	PT 205175
ICG	501613	PT 205176
ICG	501622	PT 205177
ICG	501623	PT 205179
ICG	501605	PT 205180
ICG	501611	PT 205181